

TO PROTECT AND PROMOTE THE RIGHTS OF INDIVIDUALS WITH DISABILITIES, THROUGH EMPOWERMENT AND ADVOCACY



FALL 2005 VOLUME 30

THE PROTECTION AND ADVOCACY SYSTEM FOR INDIANA

IPAS Program Priorities and Objectives

Goals help people focus. Goals are benchmarks by which one can measure success. Every year, the Indiana Protection and Advocacy Services Commission develops and refocuses priorities to determine how its efforts will be directed. This new set of priorities, outlined in detail on the following pages, will be in use from October 1, 2005, to September 30, 2006.

These new priorities are based on input collected each year. The priorities are approved by the IPAS Commission.

These changing priorities also consider new laws that have been passed and the increasing development of technology. Therefore, as you consider these priorities, recognize that each represents a barrier for persons with disabilities, a barrier to having the information, skills, opportunities, and support to:

- Live free of abuse, neglect, financial and sexual exploitation, and violations of legal and human rights.
- Make informed choices and decisions about their lives.
- Achieve full integration and inclusion in society, in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual.

Essentially, each priority is designed to reduce barriers and as a result increase opportunities for individuals with disabilities.

Three major resources were used in developing the program priorities:

- IPAS staff considered federal laws such as the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DDAct) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986. For example, the DDAct provides the Indiana Protection and Advocacy Services Commission with its PADD program, which emphasizes quality assurance, education, early intervention, childcare, health, employment, housing, transportation, recreation, and other service activities. The DDAct then suggests that advocacy, capacity building, and systems change are methods of implementing emphasized areas.
- Next, data was collected from participants of focus groups and individuals that responded to the IPAS priority survey. Approximately 50 percent of respondents to this were primary and secondary consumers. The remaining 50 percent were professionals in the field.
- Finally, IPAS staff experience was considered. Our experience has always been a reliable barometer of what remains to be accomplished.



Who is IPAS?

IPAS is an independent state agency separate from all other state agencies and programs. IPAS was established in 1977 in response to federal requirements for a program to advocate for the rights of individuals with developmental disabilities. Since then, more programs have been added to serve the advocacy needs of specific groups of individuals with disabilities.

Like the rest of America, Indiana obtains great strengths from the diversity of our people. The advantages of diversity can be seen all around us, through people who share differing abilities, experiences, traditions, and ideas that enrich our lives and our culture.

The Indiana Protection and Advocacy Services Commission is here to defend the rights of citizens with different abilities and extend equal opportunity and empowerment to people with disabilities.

People with disabilities have rights under the law

Today, there are more than 54 million Americans with disabilities. A disability is a physical or mental impairment that substantially limits one or more major life activities. The U.S. Congress has determined that disabilities are a natural part of the human experience. To help ensure that no one is excluded from participating in the mainstream of society, Congress has enacted laws providing a variety of support services and programs for people with disabilities.

People with developmental or physical disabilities, and/ or mental illnesses, also are protected under the laws that prohibit discrimination, abuse and neglect. Like all Americans, they have the right to live their lives as fully and independently as possible and with the freedom to make their own choices and decisions to the extent that their abilities will allow.

To see that the human, legal and civil rights of people with disabilities are affirmed, Congress established protection and advocacy (P&A) systems in each state. Indiana Protection and Advocacy Services provides advocacy for Indiana citizens. IPAS proudly serves people with disabilities, helping them exercise their right to appropriate treatment, as well as providing training and resources to ensure their inclusion in the life of our communities.

Too often, individuals with disabilities are:

- Abused or neglected by caregivers;
- Denied appropriate medical, rehabilitation, or psychiatric treatment;
- Denied free and appropriate public educational services;
- Denied physical access to public places and governmental services;
- Discriminated against when trying to obtain employment or housing;
- Denied the ability to make their own decisions and be a fully participating member of their community;
- Denied the assistive technology services or devices they need to be more independent;
- Denied the control of their private information being released without their consent;
- Denied the right to make their own choices as they prepare for employment through Vocational Rehabilitation or Ticket to Work training programs.

IPAS can help by:

- Helping you understand your rights;
- Helping you learn self-advocacy skills;
- Advising you on what steps you can take to secure your rights, such as appealing denials and filing complaints with appropriate governmental agencies;
- Representing you with an IPAS advocacy specialist or IPAS attorney to correct rights violations.

Every year, IPAS represents hundreds of Hoosiers with disabilities in securing their rights to full community participation and helps thousands more through information, referral, education and training services.



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Indiana Protection and Advocacy Services is the protection and advocacy system in Indiana. IPAS provides protection of the rights of persons with disabilities through legally based advocacy. Each of our federally funded programs has specific criteria regarding who can be served and what services

IPAS Program Descriptions (programs administered by IPAS)

PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES (PADD)

IPAS may offer.

PADD was created by the Developmental Disabilities Assistance and Bill of Rights (DD) Act of 1975 for individuals who meet the federal definition of developmental disabilities. PADD requires IPAS to pursue legal, administrative, and other appropriate remedies under all applicable federal and state laws to protect and advocate for the rights of individuals with developmental disabilities. The Administration on Developmental Disabilities, Administration for Children and Families, U.S. Department of Health and Human Services, oversees IPAS.

INDIANA'S DEVELOPMENTAL DISABILITIES NETWORK

IPAS has a collaborative relationship with the Indiana Governor's Council for People with Disabilities and the Institute on Disability and Community. All three programs receive funding through the federal Administration on Developmental Disabilities.

PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS (PAIMI)

Established by the Protection and Advocacy for Individuals with Mental Illness Act of 1986, PAIMI seeks to protect and advocate for the rights of individuals with mental illnesses in both institutional and community settings. The PAIMI program investigates allegations of abuse, neglect, and rights violations for people with mental illnesses. The Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration and the U.S. Department of Health and Human Services administer the program.

CLIENT ASSISTANCE PROGRAM (CAP)

CAP was established as a mandatory program by the 1984 Amendments to the Rehabilitation Act for individuals seeking services from a program or project funded by the Rehabilitation Act. In Indiana, this involves Vocational Rehabilitation Services and Centers for Independent Living. CAP is administered by the Rehabilitation Services Administration (RSA), Office of Special Education and Rehabilitation Services, U.S. Department of Education.







IPAS Program Descriptions (cont.)

PROTECTION AND ADVOCACY FOR ASSISTIVE TECHNOLOGY (PAAT)

Created in 1994 when Congress expanded the Technology-Related Assistance for Individuals with Disabilities Act (Tech Act), this program is for individuals with disabilities seeking assistive technology (devices or systems used to improve or maintain the capabilities of persons with disabilities). Designed to promote the provision of assistive technology and services through systemic reform, PAAT has the authority to negotiate compliance with federal law. Administration is by Rehabilitation Services Administration (RSA), Office of Special Education and Rehabilitation Services, and the U.S. Department of Education.

PROTECTION AND ADVOCACY FOR TRAUMATIC BRAIN INJURY (PATBI)

Created by the Traumatic Brain Injury (TBI) Act authorized as part of the Children's Health Act of 2000, this program's purpose is to expand advocacy services for individuals with traumatic brain injuries and to expand the service delivery system for this group of individuals. PATBI is administered by Health Resources and Services Administration, and the U.S. Department of Health and Human Services.

PROTECTION AND ADVOCACY FOR VOTING ACCESS (PAVA)

Created in 2002 when Congress enacted the Help America Vote Act (HAVA), IPAS seeks to ensure the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling sites. It is administered by the Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), and the U.S. Department of Health and Human Services.

PROTECTION AND ADVOCACY FOR BENEFICIARIES OF SOCIAL SECURITY (PABSS)

PABSS was created by the Ticket to WorkTM and Work Incentive Improvement Act of 1999 for individuals with disabilities who receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) who want to work or return to work. PABSS provides advocacy for beneficiaries of Social Security who have problems obtaining, maintaining and retaining employment. It is overseen by the Social Security Administration.

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS PROGRAM (PAIR)

PAIR was established by Congress as a national program under the Rehabilitation Act 1993 to protect and advocate for the legal and human rights of persons who are not eligible under the other programs—such as those with visual or hearing impairments or those with physical disabilities acquired as an adult. Administered by Rehabilitation Services Administration (RSA), Office of Special Education and Rehabilitative Services, and the U.S. Department of Education.





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Because IPAS operates by federal mandate and directive from several federal agencies, priorities are established by the IPAS Commission each year. IPAS has the authority to provide legal representation and other advocacy services under federal and state law to people with disabilities based on the following system of priorities for services.

Abuse and Neglect

Freedom from abuse and neglect is a fundamental right. Abuse and neglect prevents individuals with disabilities from leading their lives as fully and as independently as they wish. Working to reduce and eliminate abuse and neglect is one of the primary purposes that Indiana Protection and Advocacy Services Commission was established. Abuse and neglect can be defined in many different ways. In addition to physical harm, financial exploitation, inappropriate restraint or seclusion, lack of or inappropriate treatment may be considered abuse or neglect.

Following are objectives that Indiana Protection and Advocacy Services (IPAS) will work to complete to achieve the overall priority of reducing abuse and neglect of individuals with disabilities.

STATE-OPERATED OR STATE-SUPPORTED FACILITIES

- Review allegations of abuse and neglect on behalf of 75 individuals: those residing in intermediate care facilities (ICF-MR), individuals receiving Medicaid waiver services and people with traumatic brain injury.
- Investigate 30 allegations of abuse or neglect of individuals residing in mental health facilities operated by the Family and Social Services Administration's Division of Mental Health and Addiction.
- Conduct 140 treatment/disability rights training sessions for residents of state-operated facilities.

COMPREHENSIVE MENTAL HEALTH CENTERS

- Investigate 20 allegations of abuse or neglect of individuals residing in Comprehensive Mental Health Centers.
- Conduct 10 resident rights training events at selected Comprehensive Mental Health Centers.

RESIDENTIAL CARE ASSISTANCE PROGRAM

• Investigate 10 allegations of abuse or neglect of individuals receiving funding from the Residential Care Assistance Program (RCAP).









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Abuse and Neglect (cont.)

CORRECTIONAL FACILITIES

- Review and investigate allegations of abuse and neglect on behalf of 20 individuals incarcerated in the Indiana Department of Correction prisons, county jails or juvenile detention facilities.
- Investigate five allegations of abuse and neglect on behalf of individuals incarcerated in jails and detention facilities (non-DOC facilities).
- Produce one instructional video concerning mental health issues aimed at correctional officers.

PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES (PRTF)

• Investigate 10 serious incidents of individuals residing in a PRT-designated facility.

APPROPRIATE SERVICES

- Assure that eligible individuals receive approved Medicaid waiver services within a reasonable time.
- Represent three individuals in their appeal of reduced Aged and Disabled (A&D) waiver services to enforce state and federal Medicaid regulations to secure appropriate services for those individuals with disabilities receiving services under the A&D waiver (i.e. address the health and safety needs of the individual, provided in the least restrictive environment).
- Monitor the state's compliance with the statutory changes that resulted from the enactment of Senate Enrolled Act 493 (P.L. 135—2005).
- Represent five individuals in their appeal of inappropriately reduced services under the Medicaid Home and Community-Based Waiver for Children with Serious Emotional Disturbance.

GUARDIAN AD LITEM

• In selected cases, IPAS legal representatives will serve as guardian ad litem, or court-appointed counsel, for six individuals with disabilities to provide additional protection to preserve their rights in the judicial system.









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Abuse and Neglect (cont.)

RESIDENT/HUMAN RIGHTS

- Monitor and document that Indiana's Adult Protective Services will fulfill its obligations under IC 12-10-3 by investigating all reported allegations of abuse and neglect.
- Investigate 10 allegations of inappropriate use of seclusion/restraints.
- Complete 75 surveys to document the physical condition of individuals upon admission to a treatment facility.
- Participate in 75 percent of the Resident/Human Rights Committee meetings for the facilities operated by the Family and Social Services Administration's Division of Mental Health and Addiction.

MONITORING DEATH INVESTIGATIONS

- Monitor selected death investigations to document that an investigation was initiated and completed by the responsible state entity.
- Monitor five incidents of the deaths of individuals who resided in the Family and Social Services Administration's Division of Mental Health and Addiction-operated mental health facilities to document if an investigation was initiated and completed by the appropriate state entity.
- Monitor incidents that involve the death of an individual with a significant mental illness resulting from a police action shooting to document access to mental health treatment prior to the shooting.
- Investigate three incidents of death that occurred during the use of restraint/seclusion.











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Special Education

Due to the increased emphasis on school discipline, students with disabilities are at increased risk of termination or reduction of their educational services. Students, parents and advocates need information, support and sometimes individual representation to ensure students with disabilities have access to a free and appropriate education.

The federal Individuals with Disabilities Education Improvement Act of 2004, (IDEA 2004) established the rights of children with disabilities to receive a free and appropriate education. These rights are defined and interpreted under Indiana Article 7, as well as Sections 504 and 508 of the Rehabilitation Act of 1973.

The IPAS Commission has adopted the following objectives that, when achieved, will decrease the numbers of special education students that have had their educational services inappropriately reduced or eliminated.

- Review and investigate allegations that educational services have been inappropriately reduced or terminated due to suspension or expulsion on behalf of 65 students to assure their right to receive a Free and Appropriate Public Education.
- Review allegations on behalf of 35 students in five targeted special education entities that may have been denied the benefits of or subjected to discrimination under the provisions of the Individuals with Disabilities Education Improvement Act of 2004 or Sections 504 and 508 of the Rehabilitation Act of 1973, to obtain/retain appropriate educational services.
- Provide education and training regarding IPAS and disability rights through participation in two events related to special education.
- Develop and disseminate transition materials to transition-aged students, 14 years through 22 years, in three Indiana school districts.

Disability Rights Discrimination

State and federal laws prohibit the discrimination of individuals with disabilities based solely on their disability. The following objective was established to reduce those instances of disability-based discrimination.

• Investigate allegations that six individuals have been denied the benefits of or were subjected to disability-based discrimination resulting from systemic barriers.







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INDIANA PROTECTION AND ADVOCACY SERVICES COMMISSION PRIORITIES AND OBJECTIVES

OCTOBER 1, 2005 THROUGH SEPTEMBER 30, 2006

Equal Access

Individuals with disabilities continue to experience barriers that prevent them from receiving equal access to public buildings, programs and services, public transportation, and polling places. These barriers include physical inaccessibility to governmental and public places, reluctance on the part of service providers to provide reasonable accommodations, or outright denial of many types of services. Many times denial to provide access or reasonable accommodation is a result of ignorance of both characteristics of disabilities and the laws in place to ensure equal access.

The Americans with Disabilities Act (ADA) guarantees the rights of individuals with disabilities to have equal access to government buildings, programs, and services; transportation services; places of higher education; health care facilities; and restaurants, places of entertainment, and retail stores. The Fair Housing Act prohibits discrimination in housing opportunities on the basis of characteristics such as race or disability. The Help America Vote Act will be fully implemented in 2006 and will assure that individuals with disabilities have an equal opportunity to cast a private vote. The Commission has adopted the following objectives, that when achieved, will decrease the number of individuals who are denied equal access due to disability.

- Review or investigate allegations of discrimination on behalf of 52 individuals who have been denied services under the ADA (Titles 2 and 3), or Fair Housing.
- Provide education and training regarding IPAS and disability rights through participation in at least two events related to the ADA or the Fair Housing Act.
- Respond to requests for training and information regarding the Help America Vote and Americans with Disabilities Acts, and voter identification requirements.
- Develop materials for Internet-based distribution and access to provide basic information concerning voter registration, access to polling places and the right to cast a vote.
- Widely disseminate information regarding the state's grievance procedure regarding voting rights that will take effect January 1, 2006 and the role of IPAS in that process.

Equal Access: Assistive Technology

Assistive technology services and devices provide the means by which people with disabilities can achieve greater independence. The following objective was established to assist individuals with disabilities in assistive technology services and devices.

• Assist individuals with disabilities in obtaining assistive technology services and devices in the areas of education, health care, employment, community living, and telecommunications.









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Education and Employment Training

Historically, individuals with disabilities have experienced a higher rate of unemployment or underemployment, which represents significant barriers to achieving the level of independence and productivity that many people with disabilities wish to achieve. Vocational training and employment supports are often needed to allow persons with disabilities to prepare for jobs that are driven by personal choice and interest.

The following objectives were established to assist individuals seeking or receiving services from Vocational Rehabilitation Services or Centers for Independent Living, including beneficiaries of Social Security who wish to return to work.

- Investigate complaints on behalf of individuals seeking employment services regarding Vocational Rehabilitation Services or Centers for Independent Living eligibility determination.
- Investigate complaints regarding failure of Vocational Rehabilitation Services and Centers for Independent Living in providing choice to individuals seeking services under these programs.
- Review allegations of violation of the Randolph-Shepard Act by Blind Vendor Services (BVS) that impact the services or placement of up to five individuals receiving services through BVS.
- Monitor the quality and completeness of Individual Plan for Employment (IPE) documents developed by Vocational Rehabilitation Services and Plan of Services documents developed by the Centers for Independent Living as they relate to the individual's identified vocational services and supports as well as choice(s).
- Review and investigate any complaint of improper or inadequate services provided to a beneficiary by a service provider, employer or other entity involved in the beneficiary's return-to-work effort.
- Legal Services staff will provide consultation to and representation on behalf of selected beneficiaries with disabilities.
- Assure that all identified employment networks provide chosen and necessary services to individuals desiring vocational outcomes under the Ticket to Work Program.
- Report any identified deficiencies related to the employment networks to the program manager, Maximus, regarding deficiencies related to employment networks.







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INDIANA PROTECTION AND ADVOCACY SERVICES COMMISSION PRIORITIES AND OBJECTIVES

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Consumer Support: Work to support consumer groups, organizations, etc.

The IPAS Commission has established the following objectives in order to support and assist consumer groups and other organization working to protect and promote the rights of individuals with disabilities.

- Participate in selected committees, groups or task forces that have systemic implications concerning policies and practices affecting the state's care and treatment of individuals with disabilities.
- Strengthen state-operated developmental disabilities facility policies and practices regarding resident rights through participation in at least 75% of Resident/Human Rights Committee meetings.
- Support one new Crisis Intervention Team program.
- Review selected Vocational Rehabilitation Services' policy to assure compliance with the Rehabilitation Act of 1973 as amended.
- Partner with entities serving individuals with traumatic brain injury to identify services within Indiana.
- Assist the Brain Injury Association of Indiana in planning and sponsoring of the annual BIAI Conference as well as three regional conferences.
- Promote the incorporation of services for individuals with traumatic brain injuries and their families, into the state service delivery system.
- Increase advocacy skills through participation at one assistive technology national conference.
- Ensure participation of people with disabilities on accessibility councils required under the Indiana Help America Vote Act plan.







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Information, education and training about disability rights and technical assistance concerning the exercise of these rights.

Providing timely and accurate information about disabilities and disability rights to people that contact IPAS is a fundamental service provided by the Indiana Protection and Advocacy Services. The following objectives have been adopted to ensure that valuable service continues.

- Respond to requests for information and provide referral and technical assistance to individuals with disabilities, their families, and professionals about disability rights.
- Provide information about Vocational Rehabilitation Services and the Centers for Independent Living to individuals residing in Room and Board Assistance facilities.
- Provide information and referral to Social Security beneficiaries about work incentives and employment, including information on the types of services and assistance that may be available to assist them in securing or regaining gainful employment, particularly services and assistance available through employment networks under the Ticket to Work and Self-Sufficiency Program.

INCREASE AWARENESS AND EFFECTIVE SELF-ADVOCACY

It is the mission of the Indiana Protection and Advocacy Services Commission to promote the rights of individuals with disabilities through empowerment and advocacy. The following objectives were adopted to increase awareness about disabilities and disability rights and to increase the effectiveness of self advocates.

TRAINING

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- Provide education and training about disability rights and IPAS to individuals with developmental disabilities, parents, guardians, advocates, and/or service program providers.
- Support four education and training efforts of consumer-based organizations (two mental health-based organizations and two developmental disabilities-based organizations) to increase awareness of disability rights.
- Conduct one statewide conference regarding resident rights issues.
- Conduct four civil/disability rights training sessions for family members.
- Conduct one treatment rights training event for guardians or residents of the Fort Wayne State Developmental Disabilities Center.
- Provide education and training to increase the self-advocacy skills of individuals with disabilities, their families, and other advocates to enable them to obtain assistive technology services and devices.



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INDIANA PROTECTION AND ADVOCACY SERVICES COMMISSION PRIORITIES AND OBJECTIVES

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Information, education and training about disability rights (cont.)

- Provide education and training regarding IPAS and disability rights through participation in two events related to abuse or neglect.
- Provide education and training regarding IPAS and disability rights through participation in two events related to the provision of childcare.

DEVELOP AND PROVIDE INFORMATION

Timely and accurate information is critical to effective self-advocacy. The IPAS Commission has adopted the following objectives to assist individuals with disabilities, their families and other advocates to be effective self-advocates.

- Disseminate information regarding disability rights and IPAS at two events related to the provisions of childcare for all children, including children with developmental disabilities.
- Provide information about traumatic brain injuries and disability rights to those entities serving individuals with traumatic brain injury.
- Develop and disseminate packets of educational information to be provided to parents of students with traumatic brain injuries at the time of discharge from rehabilitation facilities.
- Assist people with disabilities through the grievance procedure set forth in the Indiana HAVA plan.

Agency-Wide Priority and Objectives

IPAS staff works to assure provision of high quality and advocacy services. Additionally IPAS strives to increase awareness about disabilities and disabilities rights to minority populations and to members of the general public.

The IPAS Commission has adopted the following objectives to assure quality advocacy services and increase awareness of disabilities and disabilities rights.

- Assure the provision of high-quality advocacy services.
- Maintain or exceed 90 percent affirmative ratings of all responses on all assessed parameters of the mailed Information and Referral Customer Satisfaction Survey and Customer Satisfaction Survey for closed cases.
- Collaborate with the Indiana Institute on Disability and Community to assess the outcomes of IPAS services on the lives of individuals with disabilities.







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Outreach

- Publish biannual IMPACT newsletter
- Disseminate information via exhibition booths at seven major conference events
- Conduct 35 public speaking engagements
- Through various means, reach a minimum of 50,000 individuals with relevant information.
- Develop and disseminate public service announcement to encourage prevention and reduction of abuse and neglect, and increase awareness of disability rights under the ADA and special education.
- Increase effective use of information technology as a means of empowerment and self-advocacy.
- Implement at least six projects targeted to reach Indiana's Native American, African-American and Hispanic American communities.
- Implement at least two projects targeted to reach individuals with disabilities who are homeless.

Opportunity for public comment

- Solicit input by posting priorities on the agency Web site with multiple means of submitting comments.
- Publish annual Priorities Edition of IMPACT, indicating that comments are welcomed.
- Provide annual opportunity during public Commission meeting to receive comments and suggestions.

YOUR FEEDBACK IS APPRECIATED

We want to hear your comments, concerns, and suggestions regarding our current priorities, and suggestions for any future agency priorities. Send your suggestions to IPAS by mail or via e-mail to Gary Richter at grichter@ipas.IN.gov.

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MEMBER RECRUITMENT

IPAS is always looking for new commission and advisory council members to help serve the needs of individuals with disabilities. Commission members must have a commitment toward promoting the legal and civil rights of persons with developmental disabilities, mental illness or other disabilities, and to the cause of protecting and promoting those individuals' rights to make their own personal choices.

The IPAS Commission consists of 13 members. The governor appoints four. The remainder are appointed by majority vote of the membership. Commission members serve three-year terms.

The Mental Health Advisory Council consists of 10 members appointed by the governor to serve a non-renewable four-year term.



^{*}Gubernatorial appointment



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